

REMARKS

A non-final office action, which was mailed March 6, 2007, rejected claims 1-31. An Interview with Examiner Nguyen was held on April 3, 2007. In this Amendment, Applicants amend independent claims 1 and 24; amend dependent claims 8, 9, and 30; and cancel non-elected claims 32-46 without prejudice to the filing of a divisional application. Claims 1 and 24 are in independent form. Support for the amendments can be found throughout the specification and figures, for example at Figs. 2A, 2B, 4A-4F, and 7A-7D; at page 4, lines 28-29; at page 5, line 2; at page 5, lines 5-8; at page 5, lines 20-22; and at page 6, lines 13-20. Applicants respectfully request the Examiner's reconsideration in view of the amendments and arguments set forth in this response.

The undersigned thanks Examiner Nguyen for the courtesies extended during the telephonic interview on April 3, 2007. During the Interview, the undersigned asked the Examiner for clarification regarding which portions of the cited publications, U.S. Pat. 6,361,780 ("Ley") and U.S. Pat. App. Pub. 2003/0176884 ("Berrada"), disclosed a "porous structure including hollow post-shaped elements." Examiner Nguyen indicated that the overall structure (20) shown in Fig. 2 of Ley was a hollow ring structure. Examiner Nguyen also indicated that the term "post" in "hollow post-shaped elements" could be construed to mean "after." The undersigned told the Examiner that such an interpretation would be nonsensical and therefore unreasonable.

In the Office Action mailed March 6, 2007, the Examiner rejected claims 1-5, 7, 11-13, 15-21, 24 under 35 U.S.C. § 102 as anticipated by Ley and claims 6, 8-10, 14, 22-23 and 29-30 under 35 U.S.C. § 103(a) as obvious in view of Ley. The claims, as amended, define patentable subject matter over Ley; therefore the rejection of the claims over Ley must be withdrawn.

Independent claims 1 and 24 have been amended to require "hollow post-shaped elements having inner diameters smaller than the diameter of the generally tubular member." Ley, in contrast, discloses a collar of porous material, which may include concentric rings of differing porosity. (See Ley, fig. 2). Ley's collar is positioned over a catheter (or other device). (See Ley, col. 5, lines 16-25). None of the rings of Ley's collar have inner diameters smaller than the diameter of the catheter (24) or any other generally tubular device upon which Ley

discloses that the collar can be mounted. (See Ley, col. 5, lines 16-25) Because Ley's collar is positioned over the catheter (or other device), each of the rings of Ley's collar must have a diameter larger than the catheter (or other device). Accordingly, the rejections of claims 24-31 as anticipated by or obvious over Ley must be withdrawn.

The Office Action also rejects claims 24-27 under 35 U.S.C. § 102 (e) as anticipated by Berrada. Berrada never discloses "a porous structure of hollow post-shaped elements." The Examiner misconstrues the claims when alleging that paragraph 148 of Berrada discloses a porous structure of hollow post-shaped elements. Paragraph 148 of Berrada is reproduced below:

[0148] The porous mesh filter bodies of the present invention can be formed of strands, ribbons, or wire, where the materials forming the strands, ribbons, or wires can be metallic or polymeric. Non-limiting examples of such materials include Nitinol, stainless steel, Elgiloy, spring steel, beryllium copper, nylon, PEEK, PET, liquid crystals, polyimide, and shape memory alloys and polymers generally. Elastomeric polymers can be also be used to form the strands and filter bodies. The elastomeric polymers can be formed, shaped, or post processed to achieve the desired shape. Examples of elastomeric polymers include butyl rubber, natural rubber, latex, and polyurethanes. The strands or wires can have circular, square, rectangular, or irregular cross-sectional shapes. In one filter, the strands or wires have an outer diameter between about 0.001 inch and 0.010 inch. The mesh can be any mesh having suitable porosity for the intended use, for example, for allowing perfusing blood flow while capturing emboli. Examples meshes include braids, knits, interlocking rings or polygons, weaves, helically wound patterns, and nonwoven meshes formed from chopped strand fibers. The filters can include radiopaque markers, for example, platinum wires disposed in the mesh or radiopaque coatings applied to the strands, or the strands can be composites of radiopaque and radiolucent materials disposed for example in a coaxial relationship.

Applicant is unable to identify anything disclosed in paragraph 148 of Berrada that could possible be construed as "hollow post-shaped elements." Berrada does disclose that "elastomeric polymers can be formed, shaped, or *post* processed to achieve the desired shape," (emphasis added), but this cannot reasonably be construed as disclosing a "hollow post-shaped element." Accordingly, the rejections of claims 24-27 as anticipated or unpatentable over Berrada must be withdrawn.

Claims 8, 9, and 30 are further amended for consistency with independent claims 1 and 24, to more clearly define the scope of dependent claims 8, 9, and 30, and to recite ranges for the inner diameters of the hollow post-shaped elements. Neither Ley nor Berrada disclose, suggest, or render obvious hollow post-shaped elements having inner diameters in the claimed ranges. It is noted that the claimed ranges of inner diameters for the hollow post-shaped elements are substantially smaller than the disclosed inner diameter range disclosed for the Ley's collar of between "0.4 to 4.0 (or 3.9) mm." (Ley, col. 7, line 64).

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue, or comment does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

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Respectfully submitted,

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